

Subject: FW: WPH: Response to May 16 email
Date: Monday, May 22, 2017 at 5:57:32 PM Pacific Daylight Time
From: Zeppetello, Marc@BCDC
To: Ogata, Gregory@BCDC

For file.

From: David Smith <dsmith@sticeblock.com>
Date: Monday, May 22, 2017 at 4:18 PM
To: Marc Zeppetello <Marc.Zeppetello@bcdca.gov>
Cc: "Mark L. Sanders - (mark@westpointharbor.com)" <mark@westpointharbor.com>
Subject: WPH: Response to May 16 email

Marc,

On Friday I sent you an update regarding efforts to retain a contractor to construct the temporary fence around the Retail Area at Westpoint Harbor. Here, I wanted to provide updates on the remaining items referenced in your May 16 email responding to our submission of the executed Amendment 7 and related representations you requested.

Gates

Thank you for your openness to further discuss this matter and the express accommodation of one gate for emergency access purposes. You requested further description of fire and police authorities' access through the area. Here are some additional details, per Mark:

Redwood City Police Department

The police boat is moored on P dock. Their patrol responsibility is the South Bay and Bay Bridge and they go out every week or two. The officers sometimes drive right to the gate for fast access, and their service vehicles (Redwood City maintenance, mechanics) drive to the gangway to load and unload equipment such as welders, pumps etc.

Redwood City, Menlo Park Fire Departments

The fire department also moors a fire boat on P dock and do lots of training (with plenty of time due to the nature of their work whereas the police do not). Firemen train almost every day and regularly move gear back and forth to the gangway. Typically two trucks and 3-4 people are here and they both walk and drive to the gangway. Maintenance and service crews also drive to the gangway.

US Geological Survey

USGS brings survey vessels into the harbor a few weeks at a time, and service vehicles normally drive to P dock with gear.

The fire and police boats initially berthed on A dock but moved to the transient dock over concerns about disturbing neighbors and hitting vessels with their boats while training. Other agency vessels like the Coast Guard also use N and P docks.

Utilities

Utilities for the harbor run through the fenced area and are regularly serviced by PG&E, RWC Public Works and harbor workers, as follows:

- 12" water main. Two backflow preventers and two water meters are in a large vault and read monthly.

They must be tested and recertified annually. Cathodic protection test boxes are periodically read (there is one for every valve because of the salt-water environment and co-located with the valves). And when a water leak or break occurs, water is shut off at these valves to effect repairs, and access is essential.

- Electric service. All electric service runs through the fenced area. Two large (12,000 volt) transformers with fuses, two switch panels, and multiple vaults (3'x4' boxes for access). Access is frequent to turn circuit breakers on and off for the docks, street lights, Wifi and other services.
- Communications. Just like electric service, we have 400 AT&T lines through the fenced area with multiple vaults for access and repair.
- Sewer. The sewer connection runs from the secondary road access north of the main entrance to the harbor, and goes diagonally across the fenced area with shutoff valves and cathodic protection.

Relative to servicing these utilities, the City of Redwood City and PG&E hold access easements over the area granting them access rights for their equipment.

As a general proposition, the utilities infrastructure are along the western boundary of the Retail Area, while the most direct access pathway for entities accessing the transient dock is along the eastern boundary. As you know, the Retail Area remains unimproved. When the site receives rain, the mud is quite deep, making traversing of the area difficult, if not impossible (i.e., vehicles becoming stuck in the mud). Thus, we originally requested, and are renewing the request, for access points at both the south-westerly and south-easterly portions of the fencing with gates. These would be 12-foot-wide gates capable of allowing the respective service vehicles access to their area of interest. Additionally, we are requesting a 4-foot-wide gate directly adjacent to the gangway for the transient dock for access to the vehicles as explained above. As you requested, the proposed locations for the requested gates are shown in the attached exhibit.

There are no business activities in the fenced area and the gates will be locked with service access as described above only.

I would also like to add, Marc, with all due respect, I'm not entirely clear where the jurisdictional line of BCDC relative to this discussion begins and ends. Staff shared its position that installation of a fence constitutes "fill" under BCDC's regulations, thus requiring a permit amendment. We requested and you have granted such an amendment. (Again, thank you for your and the involved staff members for your assistance in that regard.) However, it is unclear to me why a gate in a fence is a different issue of "fill" than the fence itself.

Additionally, your email states that there are "no uses authorized in Phase 3 building sites." BCDC is not suggesting that until the ultimate uses authorized in the permit are realized, the area must remain untouched and fallow, is it? Was the installation of utility infrastructure a violation of BCDC authority? Is the access for purposes of maintenance a violation of the permit? Unless I'm mistaken, the area has been used for staging landscaping materials utilized elsewhere on the site. Disallowed?

I don't mean to be provocative or make this matter more difficult, Marc, please believe me. I do, however, have genuine reservations here. I've very much appreciated the open, candid exchange we've all enjoyed of late in trying to identify and propose resolutions for outstanding concerns related to permit compliance, and I look forward to it continuing.

The fact is that BCDC's rights and authorities to inspect the site, including the Retail Area pre- and post-fencing will remain what they have always been. We readily concur that uses implicating BCDC jurisdiction not authorized in the permit are not allowed, with or without fencing and with or without gates. But that does not mean there are no uses to which the area may be put. Said another way, respectfully, not every use to which the area may be put necessarily implicates BCDC jurisdiction. And, as noted, BCDC will retain all authorities under the permit to inspect and ensure no such activities are taking place, again regardless of the

presence or absence of gates in the fence.

We very much appreciate your continued consideration of this request.

Signs

Yes, concurrent with the installation of the temporary fencing, unauthorized signs will be removed and Phase 1B public access paths and areas will be opened.

Yes, Mark will submit by June 6 a signage plan for review by staff inclusive of the noted special conditions in your email.

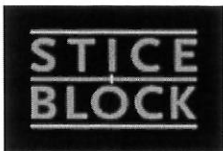
The "Members and Guests only" signs will be removed pending final resolution of the issue in the future.

Pacific Shores Fence

Yes, we have been told by Pacific Shores that once the temporary fencing has been installed to the satisfaction of the City of Redwood City, they will not oppose removal of the fence between Pacific Shores Center and the Harbor, and it will be removed.

I hope I have addressed the remaining matters from your May 16 email, Marc. If not, or if we need to further discuss anything, please let me know. And as noted, we very much appreciate your continued consideration, and that of your colleagues, of the requested gates in the Retail Area fencing.

Many thanks. D.



DAVID C. SMITH

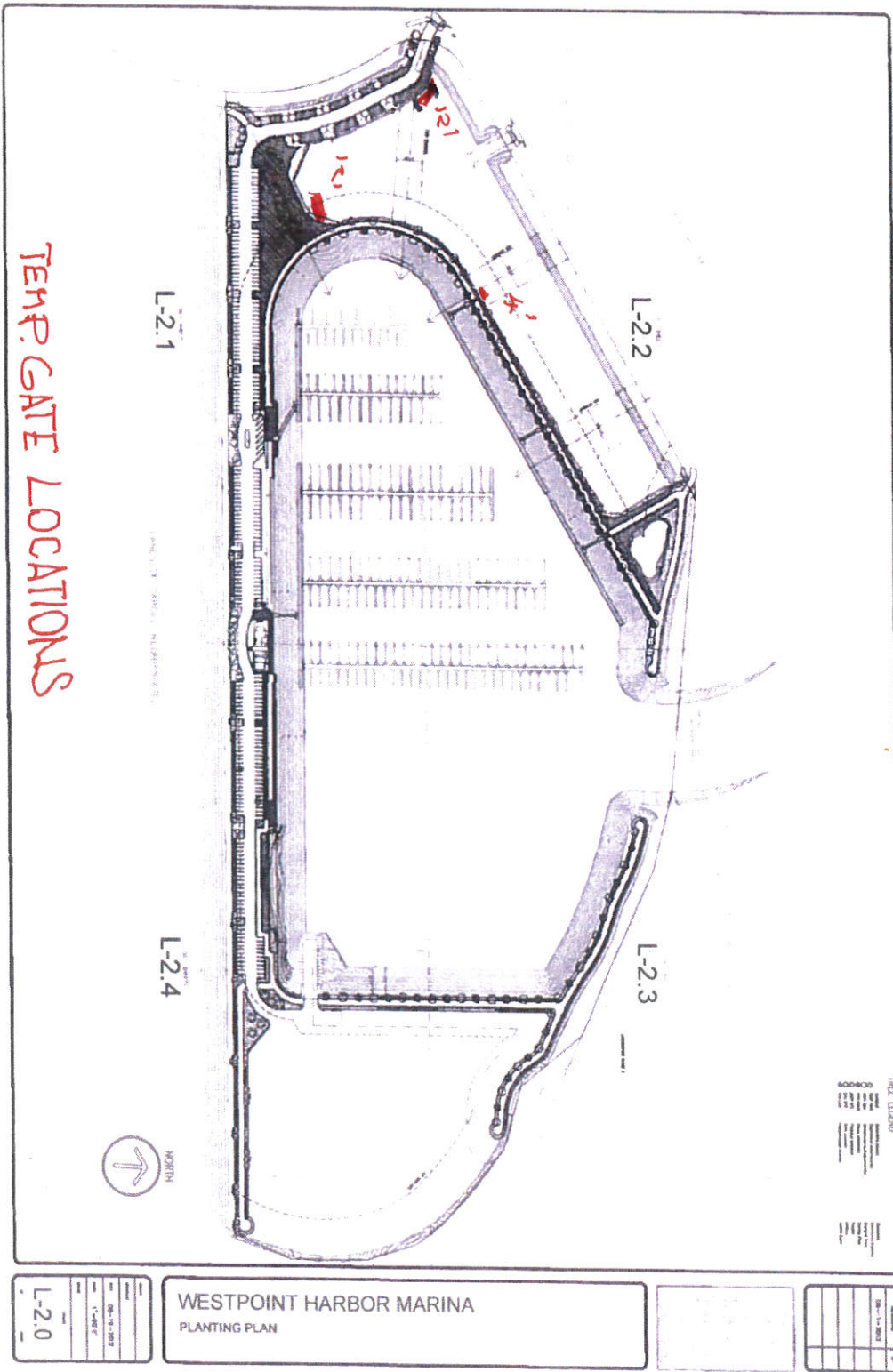
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TEMP. GATE LOCATIONS

L-2.0

WESTPOINT HARBOR MARINA
PLANTING PLAN

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